

**RESOLUTION OF THE BOARD OF DIRECTORS OF
GLENBROOKE COMMUNITY ASSOCIATION**

**Glenbrooke Community Association
Assessment Collection/Late Fee Policy**

Each year your Association is obligated to distribute to its Members a statement of the Association's policies and practices in enforcing its legal right to collect assessments from Members who do not pay those assessments in a timely fashion. This Policy is being sent to you in compliance with that law.

1. Summary of Association Assessment Authority Generally.

Associations have a legal obligation to levy assessments: Civil Code section 1366(a) imposes an obligation on community associations to levy regular and special assessments on their members in amounts that are sufficient to perform the association's obligations under the governing documents and the Davis-Stirling Common Interest Development Act. Regular assessment increases typically occur on an annual basis as part of the routine budgeting process. Civil Code section 1365 requires that community associations distribute a budget to all members of the association not less than 45 or more than 60 days prior to the beginning of the fiscal year. Each Owner's annual Regular assessment obligation is collected by the Association in advance in equal monthly installments on the first day of each calendar quarter. Assessment installments are delinquent 15 days after the due date.

Limits on Board authority to levy regular and special assessments: Special assessments, by their nature, can either be imposed during the annual budget cycle to fund a non-recurring or extraordinary expense or such assessments can be levied at other times during the year when unanticipated expenses arise. So long as the Board of Directors makes a timely distribution of the annual budget, the Board has the discretion in any fiscal year to increase the regular assessment by as much as 20% over the amount of the regular assessment imposed during the immediately prior year. This authority to increase the regular assessment by any amount that is less than twenty percent more than the prior year's assessment can be exercised by the Board without necessity of obtaining member approval for the increase. Board-imposed special assessments cannot exceed (in the aggregate during any fiscal year) five percent of the association's budgeted gross expenses for the year in which the special assessment(s) is/are imposed.

Member approval requirements for certain assessments: Regular assessment increases and special assessments in excess of these percentage caps must be approved by the members. The required affirmative vote is a majority of the members who cast ballots, when ballots are received from at least fifty percent of all members. The Board of Directors of a community association is also prevented from increasing the amount of the regular assessment levied against its members without first obtaining member approval if the Board fails to distribute a budget to all members within the 15 day window prior to the beginning of the fiscal year that is imposed by section 1365(a) of the Civil Code.

The exception for "emergency assessments": An exception to these member approval requirements is carved out by Civil Code section 1366(b) for any assessment that would otherwise be a special assessment that the Board must levy to respond to an "emergency situation". The Code then identifies three types of emergency situations, namely (i) an extraordinary expense ordered by a court; (ii) an extraordinary expense that is needed to repair or maintain any portions of the development for which the association is responsible where a threat to personal safety is discovered; or (iii) an extraordinary expense needed to repair or maintain any portion of the development for which the association is responsible that could not have been reasonably foreseen by the board when it prepared and distributed the annual budget to the members. If the Board relies on this last type of "emergency situation" as a justification for imposing an assessment without member approval, the Board must adopt a resolution containing findings as to the necessity of the extraordinary expense and why the expense could not have been reasonably foreseen at the time the budget was prepared and distributed. All members must receive a copy of that resolution at the time they receive their notice of the assessment.

2. Obligation to Notify Members of Regular Assessment Increases and Special Assessments. Before your Board of Directors can increase the amount of the annual regular assessment or levy and collect a special assessment from the members, the Association must first give all members a notice of the increase in the regular assessment or of the levy the special assessment. That notice must be given by first class mail not less than 30 or more than 60 days prior to the due date (Civil Code section 1366(d)). In the case of regular assessment increases, that notice would typically come as part of the annual budget distributed to all owners not less than 45 or more than 60 days prior to the beginning of the fiscal year (Civil Code section 1365; see paragraph 1, above). Because Civil Code section 1365 does not mandate that the annual budget of community associations be sent by first class mail, a separate mailing will be required to comply with the pre-assessment notice requirement if the budget is, for example, delivered to each member personally.

3. **Annual Obligation to Notify Members of the Association's Lien and Assessment Collection Procedures:** Civil Code section 1365(d) requires community associations to provide their members with a statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in the payment of association assessments. This statement is in addition to the Civil Code 1365.1 notice described in paragraph 16 of this Policy and, like that statutory notice, this statement of collection policies and practices must be delivered to the members of our Association during the 60 day period immediately prior to the beginning of the Association's fiscal year. This document is intended to comply with both Civil Code sections 1365(d) and 1365.1.

4. **When Do Levied Assessments Become Delinquent?** The earliest permissible due date for a regular or special assessment is 15 days after the notice of assessment is given, unless the declaration of CC&Rs provides a longer time period for payment, in which case the longer time period shall apply (Civil Code section 1366(e)). The Declaration of CC&R's for this development states that Regular assessments are due in advance in equal quarterly installments on the first day of each calendar quarter and are delinquent 15 days after the due date.

5. **What Expenses and Fees Can Be Recovered From a Delinquent Owner During the Assessment Collection Process?** Once an assessment becomes delinquent, your Association is entitled, by both the Davis-Stirling Act and our governing documents, to recover the following sums from you (Civil Code sections 1366(e) and 1367.1(d)):

- (A) the amount of the delinquent assessment;
- (B) reasonable costs incurred to collect the assessment (including reasonable attorney's fees).
- (C) a late charge not exceeding 10 percent of the amount of the delinquent assessment or \$10.00, whichever is greater;
- (D) interest on all sums (assessments, costs, late charges and legal fees) at a rate not in excess of 12 percent per annum. Interest begins to accrue from and after the time the delinquent assessment is 30 days past due.

6. **Regardless of Whether the Association Records a Lien On Your Property During the Collection of Past-Due Assessments, All Owners Have a Personal Obligation to Pay Assessments and Charges.** Regular and special assessments, together with late charges, reasonable fees and costs of collection, reasonable attorney's fees, if any, and interest, if any, determined in accordance with

Civil Code section 1366, are a debt of the owner of the separate interest at the time that the assessment or other sums are levied (Civil Code section 1367(a)). Once delinquent, the assessment and other permitted costs of collection only become a lien on the owner's separate interest when a Notice of Assessment Lien is recorded in the Office of the County Recorder against the separate interest. Because these assessments and related charges constitute a personal obligation of each owner, the association has a right to look to the owner, personally, to pay the debt and may pursue collection of that debt in a court action (typically a small claims court proceeding). Your Association is not limited to seeking recovery of the delinquent assessment from the sale of the owner's lot in foreclosure.

7. Prerequisites for Recording a Notice of Delinquent Assessment; 30 Day Pre-Lien Notice to the Delinquent Owner. Before a Notice of Delinquent Assessment can be recorded in the chain of title to the lot or unit of a delinquent owner, the owner's association must send the owner a certified notice providing information regarding the sums claimed as being delinquent (Civil Code section 1367.1(a)). No lien can be recorded until 30 days after this notice has been given. This certified notice from the Association must include the following information:

(A) a general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount that is claimed to be owed (this summary of assessment collection procedures is intended to satisfy that disclosure requirement).

(B) a statement that the notified owner has the right to inspect the Association's records pursuant to Corporations Code section 8333;

(C) a statement in 14-point capital letters (or boldface type): **"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS. IT MAY BE SOLD WITHOUT COURT ACTION"**;

(D) an itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys fees, and late charges, and interest, if any;

(E) a statement that the owner shall not be liable to pay the charges, interests and costs of collection if it is determined that the assessment was paid on time to the association;

(F) a statement that the notified owner has a right to meet with the board (see part 9, below).

8. Application of Payments Made On Account of Delinquent Assessments.

When an owner makes any payments on account of delinquent assessments and other amounts claimed as due and owing, the association must first apply the payment in reduction of the amount of delinquent assessments, and only after the assessment delinquency is paid in full can payments be applied to the fees and other costs (Civil Code section 1367.1(b)). With each payment the owner can request, and the association must provide, a receipt indicating the date of the payment and the person to whom the payment was made. The association must also provide its members with a mailing address for overnight payment of assessments. In the case of your Association, that overnight mailing address is as follows: Woodbridge Owners Association, 5955 Tyrone Road, Suite 1, Reno, Nevada 89502.

9. Owner's Right to Dispute Delinquency Amount or to Request a Meeting With the Board. Upon receipt of the section 1367.1(a) certified notice described in paragraph 7, above, the noticed owner has two possible courses of action that can be taken at this point in the collection process, namely:

(A) the owner has the right to dispute the debt stated in the pre-lien notice by submitting to the board of directors a written explanation of the reasons for his or her dispute regarding the claimed assessment delinquencies. The statute does not state a time limit on the right of an owner to provide this written explanation to the Board. However the statute states that the board has 15 days to respond, in writing, to the owner's protest (with the time period being computed the date of the postmark of the owner's explanation (if mailed) or within 15 days of receipt of the explanation) (Civil Code section 1367.1(c)); and/or

(B) the noticed owner has a right to request a meeting with the board of directors to discuss a payment plan for the delinquent assessment so long as the request for a meeting is made within 15 days following the postmark on the association's pre-lien notice to the owner (Ibid). That meeting must take place within 45 days (calculated from the postmark on the owner's request) and must be conducted in executive session (see discussion below). When an owner has made a timely request for a meeting to discuss a payment plan, the association must provide the requesting owner with the association's standards for payment plans, if any standards have been adopted. There is no statutory authorization for the board to delegate this meeting obligation to a property manager, but the board can designate a committee of one or more members to meet with the owner if there is no regularly scheduled board meeting that is scheduled to occur within 45 days of the owner's request. This right to demand a meeting with the board of directors is not

available to developer/owners who are selling lots pursuant to a Department of Real Estate Public Report and yet become delinquent in the payment of assessments.

The meet and confer option that is now provided under Civil Code section 1367.1(c) is in addition to the owner's right to pay the delinquent sums under protest pursuant to Civil Code section 1366.3 (see part 11, below). That option to pay the claimed amounts under protest does not arise until after the Association has recorded a Notice of Delinquent Assessment (see next paragraph).

10. Association's Right to Record a Notice of Delinquent Assessment.

Thirty days following the mailing by the Association to the defaulting owner of the certified pre-lien demand notice required by Civil Code section 1367.1(a) (see paragraph 7, above), the Association is entitled to record, in the county where the development is located, a Notice of Delinquent Assessment (Civil Code section 1367.1(d)). This is the document that creates a lien against the delinquent owner's separate interest (lot or unit). Certain penalty assessments may not be collected by the use of lien and foreclosure remedies (see part 13, below). For all other assessments and sums that can be collected through the use of lien and foreclosure remedies, the recorded Notice of Delinquent Assessment which begins the lien process must include all of the following information:

- (A) the amount of the assessment and the other sums that have been charged in accordance with Civil Code section 1366(e);
- (B) a legal description of the owner's separate interest that is being liened;
- (C) the name of the record owner(s) of that separate interest; and
- (D) in order for the lien to be enforced by nonjudicial foreclosure as provided in Civil Code section 1367.1(g), the name and address of the trustee authorized by the association to enforce the lien by sale.
- (E) The Notice of Delinquent Assessment must be signed by the person designated in the CC&Rs as having that authority, by the president of the Association, or by a person who is designated by the association as having authority to sign and record the Notice on behalf of the Association.
- (F) The Notice of Delinquent Assessment must be mailed to all record owners of the liened separate interest within 10 days after its recordation. That mailing must be by registered or certified mail.

11. Owner's Option, Following Recordation of Notice of Delinquent Assessment, of Paying Amounts Claimed Due Under Protest. For a period of 30 days following the date when the Notice of Delinquent Assessment is recorded, no further action can be taken by the Association to enforce the lien. This 30 day forbearance requirement is stated in Civil Code section 1367.1(g) and is also implied by the fact that the owner(s) whose property is subjected to the lien have/has the right to pay the full amount of all liened assessments and other charges under protest. That right to pay the disputed amounts under protest must be tendered to the association by certified mail within 30 days from recordation of the association's Notice of Delinquent Assessment. The protest letter must be accompanied by payment of (A) the amount of the assessment in dispute; (B) the late charges imposed through the date of payment; (C) accrued and unpaid interest; and (D) all reasonable costs of collection and attorney's fees not to exceed \$425.00. (Civil Code section 1366.3)

Upon receipt of a timely payment under protest, the Association is obligated to inform the owner that the owner has the right to resolve the dispute through the use of alternative dispute resolution as set forth in Civil Code section 1354 or through the use of other procedures to resolve the dispute that may be available through the association. Owners who are delinquent in the payment of assessments can only utilize this payment under protest procedure two times in any calendar year or three times in any five calendar years, unless the owner and the Association mutually agree to further ADR proceedings. If the ADR process results in a determination in favor of the owner (i.e., that the assessment levy was not done properly), the owner is entitled to an award of reasonable interest (no specific rate is stated) to be paid by the association on the total amount the owner paid under protest (Civil Code section 1366.3(b)). The Civil Code section 1354 ADR process may be binding or non-binding, depending on the proposal advanced by the proponent party and the ADR process begins with the service of a document termed a "Request for Resolution" that must include certain stated information. Once served, the Request for Resolution must be met with an acceptance or rejection of the ADR proposal from the receiving party within 30 days. If the ADR proposal is accepted, the statute contemplates a 90 day ADR process and if the proposal is rejected, the propounding party is free to seek redress by court action. It is the policy of this Association that any owner who exercises these payment under protest rights must include in his or her payment-under-protest notice, either a Request for Resolution that proposes a specific form of ADR or, in the alternative, a notice that the protesting owner would like to appear before the Board of Directors in the manner contemplated by paragraphs 9(A) or 9(B) of these collection policies. If the owner does not indicate a preference in his or her protest notice, the Association shall assume that the owner wishes to appear before the Board and the owner shall be notified of the date, time and location of that hearing.

12. Pursuit of Non-Judicial Foreclosure to Collect Assessments. Once all of these pre-foreclosure notice and hearing procedures have been satisfied (paragraphs 7

through 11, above) and a period of 30 days has elapsed since the Notice of Delinquent Assessment was recorded, the Association is authorized to enforce the lien through any means permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code section 2934(a) (Civil Code section 1367.1(g)). Any sale by a trustee in a non-judicial foreclosure must be conducted in accordance with Civil Code section 2924, 2924b and 2924c, applicable to the exercise of powers of sale in a mortgage or deed of trust and the fees of the trustee may not exceed the amounts prescribed in Civil Code section 2924c and 2924d.

Non-judicial foreclosure is a very detailed process which permits the trustee identified in the Association's Notice of Delinquent Assessment to sell the liened separate interest without necessity of filing a judicial foreclosure action in the Superior Court. The process begins with the recording of a Notice of Default (Civil Code section 2924c(b)). That recorded notice is then served on the owners of record of the property and other persons who have recorded a request for a copy of any Notice of Default. Once the Notice is recorded, a period of three months must elapse before a Notice of Sale can be recorded and served. During that period, the delinquent owner has a right to stop the process by paying the amounts in default in full (Civil Code section 2924c(a)). Once the three months have passed, the trustee can give Notice of Sale for a date that is at least 20 days later in accordance with very specific publication, posting and recording requirements imposed by Civil Code section 2924 f(b). The foreclosure statutes also provide for postponements of the process. Ultimately, if the trustee's sale proceeds it is conducted as a public auction in the county in which the separate interest is located, during normal business hours on any business day. **ANY OWNER WHOSE SEPARATE INTEREST IS IN FORECLOSURE IS URGED TO CONSULT WITH COMPETENT LEGAL COUNSEL OF THE OWNER'S SELECTION IN ORDER TO BE PROPERLY ADVISED OF THE OWNER'S RIGHTS AND OPTIONS AND THE TECHNICAL REQUIREMENTS OF THE FORECLOSURE PROCESS.**

13. Limitations on the Use of Non-Judicial Foreclosure to Collect Certain Monetary Charges or Penalty Assessments.

(A) Limitations During the Period of Developer Control: For so long as any separate interests in a common interest development are being sold pursuant to a Public Report issued by the California Department of Real Estate, any monetary penalty imposed by a community association as a disciplinary measure for a member's failure to comply with the development's governing documents or as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and facilities by a member, or in bringing the member and his or her separate interest into

compliance with the governing documents may not be characterized as an assessment that may become a lien against the member's separate interest that may be enforceable by a sale of the interest in accordance with the non-judicial foreclosure provisions of Civil Code sections 2924, 2924(b), and 2924(c). 10 Cal. Code of Regs. Section 2792.26(c). Assessment collection costs, late payment penalties and interest charges on delinquent assessments are not subject to this limitation. This Association IS X under developer control as of the date of the distribution date of these procedures.

(B) Limitations Following the Period of Developer Control. Once all sales of subdivision interests pursuant to a Public Report have ended, Civil Code section 1367.1 (d) (now section 1367(b)) prohibits monetary charges imposed by an association as a means of reimbursing the association imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents of the development (other than late payments for delinquent assessments) from being characterized or treated in the governing documents as an assessment that may become a lien against the owner's separate interest enforceable by non-judicial foreclosure pursuant to Civil Code sections 2924, 2924(b) and 2924(c). However the same Civil Code section permits the use of lien and non-judicial foreclosure remedies to collect monetary charges imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and common facilities for which the member or the members' guests or tenants were responsible, BUT only if the governing documents specifically state that such lien and foreclosure remedies can be used.

14. Alternative of Pursuing Collection in a Small Claims Court Proceeding. Both Civil Code section 1367 (f) and 1367.1(h) permit community associations to sue delinquent owners personally (rather than pursuing lien and foreclosure remedies) or to take a deed in lieu of foreclosure on account of delinquent assessments. Due to the fact that most assessment collections involve amounts that are under \$5000, the typical judicial remedy would be a small claims court action.

15. Consequences of Failing to Follow the Statutorily Mandated Notice and Other Procedures That Are a Prerequisite to Lien Recordation. If it is determined that a community association's lien previously recorded against an owner's separate interest was recorded on error, the party who recorded the lien [typically the association] must, within 21 calendar days, record or cause to be recorded in the office of the County Recorder a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing and recording was in error and a copy of the lien release or notice of rescission.

16. Annual Notice to Members of Assessment and Assessment Collection Rules: In support of the Civil Code assessment collection and enforcement rules

summarized above, Civil Code section 1365.1 requires community associations to distribute to each member, during the 60 day period immediately preceding the beginning of the association's fiscal year, of a notice, printed in 12-point type, that reads as set forth in **Exhibit "A"** of this Collection Policy.

EXHIBIT "A"

[NOTE: Civil Code section 1365.1 requires community associations to distribute the following written notice to each member of the association during the 60-day period immediately preceding the beginning of the association's fiscal year. The notice must be printed in at least 12-point type]

NOTICE ASSESSMENTS AND FORECLOSURE (Civil Code section 1365.1)

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to a nonjudicial foreclosure. When using nonjudicial foreclosure, the associations records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time.

In a nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of Section 1367.1 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 1367.1 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail. Among these documents, the association must send a description of its collection and lien

enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 1367.1 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who received the lien release within 21 days, and to provide an owner certain documents in this regard. (Section 1367.1 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Sections 1367.1 and 1367.1 of the Civil Code)

An owner may dispute an assessment debt by giving the board of the association a written explanation, and the board must respond within 15 days if certain conditions are met. An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (Sections 1366.3 and 1367.1 of the Civil Code)

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 1367.1 of the Civil Code)

The board of the directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)

Glenbrooke Community Association
Assessment Collection/Late Fee Policy Resolution

BE IT RESOLVED that at a duly noticed and conducted meeting of the Board of Directors of Woodbridge Owners Homeowners ("the Association"), held on the 15Th day of May, 2007, at which a quorum was present, the following resolution was adopted:

Whereas, Glenbrooke Community Association Board of Directors shall have all the powers of a non-profit corporation organized under the laws of the State Of California, subject only to such limitations on the exercise of such powers as are set forth in the Articles, The Bylaws and the CC&R's. The Association shall have the power to do any lawful act that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles, The Bylaws and to do and perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association.

Whereas, Glenbrooke Community Association is responsible for the collection of the assessments and late fees per the governing documents, Article IV, 4.01, the Assessment Policy and Procedure is as follows:

Whereas, it is the intent of this policy to be applicable to all homeowners of the Association.

Now, Therefore, Be It Resolved that the following Assessment Policy and Procedure be established:

Regular assessments shall commence with respect to all Units within any Phase of the Project on the closing date of the first sale of a Unit within said Phase to an Owner other than the Declarant. An assessment payment is delinquent if not paid on the first day of the month. Late after the 15th day per California Code 1366. Late fee is \$10.00 or 10% of the delinquent assessment, whichever is greater, plus interest on all sums due over 30 days of twelve percent (12%) per annum per California Code 1366.

Accounts fifteen (15) days past due

Delinquent Letter requesting payment. \$10.00 or 10% of the amount of the delinquent assessment, whichever is greater. (sent certified mail)

Accounts thirty (30) days past due

Second Delinquent Letter requesting payment. Interest on all sums (assessments, costs, late charges and legal fees), at a rate not in excess of 12% (sent certified mail)

Accounts sixty (60) days past due

Intent to Lien Letter if not paid within 30 days (sent certified)

Accounts one hundred (100) days past due

Lien will be filed under the Direction of the Board (sent certified)

